

TOWNSHIP OF LOWER MAKEFIELD  
ZONING HEARING BOARD  
MINUTES – SEPTEMBER 7, 2010

The regular meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on September 7, 2010. Chairman Malinowski called the meeting to order at 7:00 p.m.

Those present:

Zoning Hearing Board: David Malinowski, Chairman  
Paul Bamburak, Vice Chairman  
Gregory J. Smith, Secretary  
Jerry Gruen, Member  
Anthony Zamparelli, Member

Others: Robert Habgood, Code Enforcement Officer  
James Esposito, Township Solicitor  
James Majewski, Township Engineer  
Allen Toadvine, Zoning Hearing Board Solicitor

Absent: Matt Maloney, Supervisor Liaison

APPEAL #10-1558 EDWARD M. BUCCI AND DONNA VAGNOZZI BUCCI

The Applicants were not present at this time.

APPEAL #10-1559 – CAMERON C. AND OLGA JEAN TROILO

The Application submitted was marked as Exhibit A-1. Accompanying the Application was a one-sheet drawing time-stamped by the Township on 7/7/10, and this was marked as Exhibit A-2. Exhibit A-3 was marked which is an 8 ½" by 11" drawing of the sign elevation for Flowers Field at Edgewood, time-stamped by the Township on 6/23/10.

Mr. Edward Murphy, attorney, was present and stated this Application is with regard to a parcel which is a compilation of Tax Parcels #20-12-4, #20-12-5, #20-13-4, and #20-14-7. He stated the parcels are located in the Historic/Commercial Zoning District. He stated the Plan to which this Application relates involves a proposed Traditional Neighborhood Development (TND) which is a mixed use type of development that contains retail, office, and residential. Mr. Murphy stated this Application focuses solely on seeking permission to install two temporary sale signs the dimensions of which are included in the Application. He stated they are proposing a single sign along the

Yardley-Langhorne Road frontage of the property and a single sign on the Stony Hill Road frontage. He stated the size of the signs are 5' by 8' for a total of 42 square feet. It is proposed that each sign will be 9' high.

Mr. Toadvine asked how long the signs would be up, and Mr. Murphy stated he does not know for certain as the project still needs to secure Preliminary and Final Land Development Approval; and once this is approved, it could take one to two years. He stated possibly the Board could limit the approval to two years; and if it is necessary to do so, the Applicant would have to ask the Board for an extension.

Mr. Murphy stated when the Application was reviewed by the Township staff, Mr. Majewski commented on the initial locations for each of the signs, and there was some question as to whether the suggested locations might interfere with appropriate sight distances. Mr. Murphy stated the Applicant has since reviewed the locations and have revised the Plan as to the location of the proposed signs. Exhibit A-4 was marked which is a Plan that identifies by a red star the revised locations for each of the proposed temporary signs. Mr. Toadvine asked if the Township is satisfied with these locations; and Mr. Majewski was provided a copy of Exhibit A-4 this evening, and after review of same, indicated he had no problem with the proposed locations.

Mr. Malinowski asked about the copy on the signs; and Mr. Murphy stated while they do not have the copy available at this time, it will say "Coming Soon, Traditional Neighborhood Design, Office, Retail, and Residential Space Available."

Mr. Gruen asked when they want to put up the signs. Mr. Murphy asked that the Applicant be sworn in to answer this question, and Mr. C. T. Troilo was sworn in. Mr. Troilo stated he and his father are the owners of the property that is the subject of the Application, and he stated he agrees with the summary Mr. Murphy has given this evening. With regard to the timing of the installation of the signs, Mr. Troilo stated once they have Preliminary Plan Approval from the Township it will probably take one to two months to have the signs fabricated, and they will be installed at that time. Mr. Murphy stated he anticipates the signs will be installed by late this year or early next year.

Mr. Esposito stated the Township is not participating in this matter.

There was no public comment, and the Hearing was closed.

Mr. Bamburak moved, Mr. Gruen seconded and it was unanimously carried to approve the request for construction of temporary signs with a time limit of two years for the signs to be there.

#10-1560 – BENJAMIN F. ROGERS

Mr. Benjamin Rogers was sworn in. The Application submitted was marked as Exhibit A-1. Mr. Toadvine stated the Applicant has prepared a list of Exhibits A-G, and that packet was collectively marked as Exhibit A-2.

Mr. Rogers stated he and his wife moved to their home in September, 1995 when they were younger and healthier. He stated they are requesting permission to add a storage shed on the property. He stated they found that they had a problem with impervious surface.

Mr. Toadvine stated it appears from the Application that the existing impervious surface is 18.5%, and he asked if the Township agrees with this calculation. Mr. Habgood stated it was difficult to confirm this because the Site Plan did not appear to show everything. Mr. Toadvine asked if they agree that with the construction of the shed, the impervious surface will go up .9%, and Mr. Habgood stated he feels it would be an additional 1%. Mr. Toadvine stated if the Board were so inclined, they could grant a Variance of 19.5%. Mr. Smith asked if 19.5% would cover all the existing impervious surface and the shed, and Mr. Bamburak suggested that they grant a Variance to increase the impervious surface by 1%.

Mr. Esposito stated the Township is not participating.

There was no public comment, and the testimony was closed.

Mr. Smith moved, Mr. Gruen seconded and it was unanimously carried to grant the Variance to increase impervious surface by 1%.

APPEAL #10-1558 – EDWARD M. BUCCI AND DONNA VAGNOZZI BUCCI

Mr. Charles Conturso, attorney, was present. The Application submitted was marked as Exhibit A-1. Accompanying the Application was a one-sheet drawing dated 5/20/10, and this was marked as Exhibit A-2.

Mr. Conturso stated he felt they had included a three-page Plan for the garage, and Mr. Toadvine stated this was attached to the Application which was made part of the record.

Mr. Conturso stated they are seeking Variances for impervious surface and yard requirements. He stated this is a unique piece of property and is bounded on all three sides by collector roads, and the Ordinance requires 80' setbacks on all sides of the property. Mr. Conturso stated he feels this is the only property in the Township that has this particular situation.

Mr. Toadvine asked the existing impervious, and Mr. Conturso stated it is 17.37%, and they are requesting 19.83%.

Mr. Toadvine asked about the existing and proposed side yard setbacks. Mr. Conturso stated for the setback on Yardley Road, the existing is 72', and they are requesting 46'. For the setback on Makefield Road, the existing is 72', and they are requesting 18'.

He stated they are also requesting a Variance from the height requirements. The limit is 15' for the garage, and they are requesting 29'2". He stated this is to the top of the cupola.

Mr. Edward Bucci was sworn in and stated he and his wife live on the property which they acquired in 1989. He stated when they acquired the property, it had been vacant for about ten years, and they renovated the entire house and moved in 1995.

Mr. Toadvine stated the Board will take notice of the fact that the Application has been before the Board at least two previous times, and Variances and/or Special Exceptions were granted under Appeal #91-768 and #93-685. He stated the first Order of the Board had to do with the use of the property as an accessory office and the entrance of the property being improved, and the second Order of the Board permitted a Variance to allow setback from Makefield Road of 72' with the understanding that the only obstruction would be the front porch structure. These were incorporated into the Record.

Mr. Conturso asked Mr. Bucci about the plans for the Yardley side; and Mr. Bucci stated he has applied for and received a Permit for a renovation of a small addition on that portion of the property, and he needs to get a set back Variance for a patio outside of a side door they are adding on that side of the house. Mr. Bucci stated there is a waterscape feature as part of the landscaping, but this does not add to the impervious surface. Mr. Bucci stated the patio will be a flag stone patio that will be set in sand or quarry dust. There will be no concrete or blacktop. With regard to the Makefield Road side, they are proposing a detached 2 ½ car garage with storage on the second floor. He stated the Plan shows the location of the existing driveway, and they will utilize the existing turn-around and have deleted some of the asphalt to save on impervious surface and brought the driveway forward.

Mr. Conturso noted the reference which was made with regard to the Special Exception for the professional office at the property; and Mr. Bucci stated that Office has been out of the house for a few years, and it is now totally residential.

Mr. Malinowski asked if there is an existing garage, and Mr. Bucci stated there is an attached three-car garage. He stated he needs the additional garage and storage. He stated there are three vehicles still outside of the house, and they are trying to get the vehicles enclosed.

Mr. Bamburak asked if they have given any thought to removing the asphalt parking area since the professional office is gone; and Mr. Bucci stated while he has considered this, they have a large extended family and all the get-togethers occur at their home and there is no safe place to park on the street.

Mr. Conturso asked why they need 29'2" for the height of the garage, and Mr. Bucci stated they need additional space for storage on the second floor. He stated they also wanted a cupola, and it was suggested by the Township that they apply for whatever they may need to incorporate the total height. Mr. Conturso asked how this will blend in with the existing construction, and Mr. Bucci stated aesthetically it will blend in entirely with the house, and they will have the same finish, windows, and garage door.

Mr. Malinowski asked if there will be utilities in the garage, and Mr. Bucci stated there will be electrical. There will be no bathroom or kitchen facilities. Mr. Malinowski stated there is no way the second story could be converted from storage to living area; and Mr. Bucci stated they would not do this, and they would agree to a Condition that the free-standing garage could not be used for living space.

Mr. Conturso asked Mr. Bucci if there are any structures in the yards adjacent to the Yardley-Makefield Road on the properties south of his home; and Mr. Bucci stated at 2013 Yardley-Makefield Road there is an outdoor gazebo which is approximately 10' off the road. He stated there is also a house that has construction taking place on the corner of Colonial Ridge and W. School Lane where they are building a detached garage, and it appears that the garage is approximately 15' from the site yard. Mr. Bucci stated because his property is surrounded by three roads, every time they want to do something, they have to request a Variance.

Mr. Conturso offered a copy of the Tax Map showing the parcel in question marked in yellow, and this was marked as Exhibit A-3. Mr. Conturso also noted a letter received from a neighbor living at 2111 Yardley Road who is in favor of the project. Mr. Bucci stated that neighbor's property is to the left of the intersection.

Mr. Esposito stated the Township is participating in this matter. He asked if Mr. Bucci would agree to install some storm management to mitigate the additional impervious surface, and Mr. Bucci stated he would entertain doing this. He stated he has not had any history of flooding onto the road, and his property is an “island.” Mr. Esposito stated they are adding 2.5% more than what they have now so they would look to have the Applicant work with the Township engineer to try to mitigate some of this. Mr. Bucci stated he would be willing to do this. Mr. Esposito stated the Township would also ask that the Applicant enter into a Stormwater Operations and Maintenance Agreement with the Township to make sure that the Applicant maintains whatever mitigation is agreed to.

Mr. Esposito stated the Plans show a breezeway proposed between the garage and the structure; and Mr. Bucci stated this is a pergola which is open on top, although it will probably have wisteria growing over top. It will not be enclosed.

Mr. Gruen asked why the garage could not be incorporated into the large asphalt parking area on Edgewood Road, and Mr. Bucci noted the main entrance is on the Makefield Road side where the radius is which is attached to the front of the house where the existing attached garage is. He stated if they were to pull it forward into where the turnaround is located, it would not function well as a driveway since if there were other cars in front of the other garage, there would be no turn around area. He stated they want to make sure that they do not have to back out onto the street.

Mr. Smith asked why they could not bring the proposed garage onto the asphalt parking area which is existing. Mr. Bucci stated it would then be on the opposite side of the house from where the existing garage is; and the way the house is designed you would then be walking into the middle of the house. He stated there would not be a door at that location that would be to the front of the house. He stated they would also lose all the parking which they need when they have family functions. Mr. Toadvine stated it is impractical for people to park on Edgewood, Makefield, or Yardley Road; and Mr. Bucci agreed that there is no safe off-street parking. He stated they have been there fifteen years; and other than the open house, they have not had to have people park on those streets.

There was no public comment, and the testimony was closed.

Mr. Bamburak moved and Mr. Malinowski to grant the Variances as requested for setback, impervious, and height subject to the Condition that the garage never be used for approved living space, that a Stormwater Management Plan be entered into for the property approved by the Township engineer, and that a Stormwater Management Maintenance and Operations Agreement be executed.

Mr. Gruen asked if the Board could consider approving the stone patio but not the garage, but Mr. Bamburak stated his Motion is as stated.

Motion did not carry as Mr. Bamburak and Mr. Malinowski were in favor and Mr. Gruen, Mr. Smith, and Mr. Zamparelli were opposed.

Mr. Gruen moved to approve the stone patio. There was no second.

Mr. Smith moved and Mr. Smith seconded that the relief requested be denied.

Mr. Gruen stated he objects to the location of the garage being that close to the road. He stated he also objects because there were two previous Variances, and he feels they will keep coming for more Variances. Mr. Bamburak stated if they move the garage around, this will possibly increase the impervious even more by having to make the driveway bigger. Mr. Smith stated he is not that concerned with the impervious, but is concerned with the fact that the existing buildings already take up a large portion of that lot as you look at it. He is concerned with a 1 ½ story high garage being 18' from the road. He stated all three are major feeder roads. Mr. Malinowski stated this is a unique piece of property, and he cannot do anything else with the property. Mr. Smith stated he already has a three-car garage, and he has indicated that he has not run out of parking space.

Mr. Gruen stated he feels the property is possibly being used as a commercial property. Mr. Toadvine stated it was approved as a dental office; and the Applicant has testified that the dental office is no longer used, and it is a residential property. He stated there was mention that there were previous Variances granted, but one of these was a Special Exception for a home occupation to be used as a dental office; and the only Variance the property has ever received was a setback from Makefield Road.

Mr. Majewski stated they indicated that the garage was 18' from the road, but it is actually 18' from the right-of-way; and the actual physical roadway is probably double that. Mr. Gruen stated he feels it is maybe 10' from the road to the property. Mr. Majewski stated there is approximately another 20' so the garage would be 38' from the edge of the road.

Motion to deny did not carry as Mr. Gruen and Mr. Smith were in favor, and Mr. Bamburak, Mr. Malinowski, and Mr. Zamparelli were opposed.

Mr. Habgood stated before making a comment, he would like to advise the Board that his father is Mr. Conturso's partner and asked if this would be a problem for the Board; and the Board indicated it was not. Mr. Habgood stated on the Makefield Road side of the property, there is a row of evergreens acting as a shield. He also stated that detached structures normally have a minimum setback of 10' from the property line; and the only reason they are asking for a Variance is because this is a collector road.

Mr. Smith moved, Mr. Bamburak seconded and it was unanimously carried that the relief requested be approved with the following Conditions:

- 1) Additional garage never be used for living quarters;
- 2) Applicant install a stormwater management system to the satisfaction of the Township engineer and enter into a Stormwater Management Operations and Maintenance Agreement.

A short recess was taken at this time.

#### #10-1561 – TIM MOORE

The Application submitted was marked as Exhibit A-1. Accompanying the Application was an 8 ½” by 11” drawing of the property and proposed location of the shed, and this was marked as Exhibit A-2.

Mr. Tim Moore was sworn in. Mr. Moore stated he needs a Variance for a shed to be 1’ from the rear property line and 1’ from the side property line. He stated he has a hill; and if he were to move the shed to where it would be permitted, he would have to dig into the hill which could cause flooding onto the neighboring property owner. He stated the hill is 10’ up from the back of the property, so he would have to dig into the hill to have the shed level. He stated the hill slopes toward his back neighbor. Mr. Moore was asked if he has a contractor, and Mr. Moore stated he stated he was going to do the work himself.

Mr. Bamburak stated it is difficult to determine what he wants to do from the drawing provided. Mr. Moore stated if he were permitted to put it in the back corner, it would be on a level service. Mr. Bamburak asked if since it is low at that location, would the water not flow into the shed; and Mr. Moore stated he does not feel it would since the shed goes on stone and cinderblocks. He stated he is trying to put the shed where the property is level. Mr. Gruen asked the steepness of the slope, but Mr. Moore was not able to provide an exact response.

Mr. Bamburak stated he would like to see a survey or have some pictures to look at because it is difficult from the information provided to understand what he wants to do. He stated there has been very little detail provided on what the land does on his property.

Ms. Diane Moore was sworn in and tried to describe the level of the area by using her hands. She stated the back corner has a “pie” and it is flatter in that surface, and this is why they wanted to put it in that surface. She stated if they had to go 10’ back, it would be in the hill. Mr. Toadvine asked if they could go 20’ in where it would be flat again; and Ms. Moore stated it is not and once you go 20’ in, it brings you into the hill more. She again described the property using her hands. She stated they wanted to put it in the back, farthest corner so that they would not disturb the hill or cause their neighbors any flooding. She stated the farther back they can get it would be the best location. She stated it is flatter in the “pie” where they are proposing to put it in the far left hand corner as close to the property line as possible.

Mr. Toadvine stated the Board is having a difficult time understanding the request, and he asked that the Applicants provide pictures with stakes or cones installed where they want to have the shed. He stated the pictures should also depict the hill and the problems they are experiencing locating the shed in a flat spot in the rear of the property.

Mr. Gruen offered to go out and look at the property as well.

Mr. Zamparelli asked if there are any utility lines in the area, and Ms. Moore stated there are not.

It was agreed to continue the matter to September 21, and the Applicant will come back with pictures.

Mr. Bamburak moved, Mr. Smith seconded and it was unanimously carried to continue the matter to 9/21/10.

#### APPEAL #10-1562 – JASON M. PETERS AND TABITHA PETERS

The Application submitted was marked as Exhibit A-1. Accompanying the Application was a one-sheet Plan dated 8/4/10, and this was marked as Exhibit A-2.

Mr. Edward Murphy, attorney, was present with Mr. Jason Peters and Mr. Eric Clase, engineer. Mr. Murphy stated the request is to permit an increase to the impervious surface to permit vehicles to more efficiently turn around on the property without have to back out onto the street. He stated the property is unusually configured, and over half of the allowable impervious surface is devoted to the driveway to get back to the house. He stated they propose a combination of the removal of some of the existing impervious and in addition the installation of some porous paving to offset the impervious surface as well as the addition of other Best Management Practices (BMPs) such as rain gardens and other suggested ways of minimizing the modest increase in impervious surface.

Mr. Murphy stated the permitted amount is 19% in the R-1 District which is the District in which the property is located. The existing impervious surface is 17.9% as shown in the lower right hand corner of Exhibit A-2. He stated the total net increase proposed by the Application is 1.8%.

Mr. Eric Clase and Mr. Jason Peters were sworn in. Mr. Clase stated he prepared Exhibit A-2. He stated the existing property is a flag lot with a 420' driveway. He stated the home sits in the back section of the flag in the center of the lot with a brick frame garage adjacent to it with a small parking area between the garage and the home. Mr. Murphy stated the lot has a single point of access at Dyers Lane, and there is a serpentine driveway extending through the "stem" of the flag to reach the home, and Mr. Clase agreed. The length of the driveway to reach the home is approximately 425'. Mr. Clase stated the existing impervious surface is 17.9%. He stated out of the 17.9% impervious surface, the driveway represents 52%.

Mr. Murphy stated he had indicated in his opening remarks that the purpose of the modifications involves trying to enable vehicles to maneuver more easily in and out of the property, and Mr. Clase agreed. Mr. Clase stated as you pull in off Dyers Lane, it is a "snaked" driveway. He stated they want to put pavers on the side of the drive to accommodate trucks coming into the driveway because they are getting ruts in the driveway. He also stated that as you come up into the bulk of the property, the current driveway configuration does not allow for a nice turn, and they are proposing to remove some of the asphalt from the existing driveway and swing it over to the opposite side which makes it a cleaner turn. He stated as you get into the turnaround area in front of the garage, they want to add some pervious paving and impervious paving so that there is an area for people to back up easily and turn out so that people do not have to go into the landscape/grass areas or have to back down the 425' driveway.

Mr. Toadvine stated of the total net increase, half of that would be pervious pavers, and Mr. Clase agreed. Mr. Murphy stated he had also indicated that in addition to having pervious paving, they will also plan for a rain garden and other type BMPs, and Mr. Clase agreed. Mr. Clase stated prior to this evening's meeting, he had a discussion with Mr. Majewski who made a number of recommendations which are not shown on the Plan but which the Applicant would agree to. Mr. Clase stated on the opposite side of where the garage is, they are showing a proposed stamped concrete area which would be pervious paving; and adjacent to that they are showing the proposed rain garden. Mr. Clase stated that prior to the meeting this evening, Mr. Majewski had pointed out that the proposed rain garden is in the proximity of the existing water lateral, and they would be willing to work with Mr. Majewski during the engineering review to move the rain garden away from the lateral. He stated Mr. Majewski also indicated that there could be some additional landscaping; and while they have not worked out the location for this,

they would be agreeable to this. Mr. Murphy stated he feels Mr. Majewski was recommending that some additional buffer plantings could be installed along the common boundary line between Lots #15 and #17.

Mr. Peters stated he did discuss his project with his neighbors residing at Lots #16 and #17, and neither had any objections to his proposal. He stated he would agree to the recommendations made by Mr. Majewski.

Mr. Toadvine stated according to the Plan they are adding 1,895 square feet of coverage of which 953 feet would be pervious pavers. He stated if the Board were so inclined, they could indicate that they are allowed an additional 1,895 square feet of impervious provided 953 feet of that would be pervious paving, and this was acceptable to the Applicant.

Mr. Gruen asked Mr. Majewski if the pervious paving is approved by the Township; and Mr. Majewski stated while it is considered to be impervious surface, for the purpose of stormwater management, if properly designed and installed, it could mitigate the impact of stormwater from the additional impervious surfaces. Mr. Murphy stated the total amount of additional impervious they are seeking does not differentiate between pervious pavers and the blacktop. Mr. Majewski stated porous paving was recently installed at the Makefield Elementary School, and the Board could look at that to see what it looks like and how it performs in a rain storm.

Mr. Esposito stated the Township is not participating in this matter, but they would agree with the Township engineer's recommendations.

There was no public comment, and the testimony was closed.

Mr. Smith moved, Mr. Gruen seconded and it was unanimously carried that the relief requested be granted with the following Conditions:

- 1) That they be allowed an additional 1,895 square feet of impervious surface over the existing amount of impervious surface and that the Applicant install such stormwater management devices which may include pervious pavers, etc. to the satisfaction of the Township engineer so as to allow for an effective 19% impervious surface;
- 2) That the Applicant enter into a Stormwater Management Operations and Maintenance Agreement with the Township.

APPEAL #10-1563 – WESLEY GARDNER

The Application submitted was marked as Exhibit A-1. Accompanying the Application was a one-sheet Plan dated 2/24/10, and this was marked as Exhibit A-2.

Mr. Wesley Gardner, and Mr. Sam Kenyon, contractor, were sworn in. Mr. Gardner stated he is seeking a Variance for his front yard setback. He stated he has a corner property, and he is bound by front yard setbacks on two sides. He stated he wants to do a garage addition. He stated he currently has a one-car garage. He would like to have a garage addition and add depth to the garage by building it over the existing driveway so that he can have storage and get two cars into the garage.

Mr. Toadvine stated according to Exhibit A-2, the home already violates the setback, and Mr. Gardner agreed. Mr. Toadvine stated currently they have a 28' setback, and they want to go to 21'; and Mr. Gardner agreed. Mr. Toadvine stated according to the Plan it is approximately 16' from the edge of the property line to the macadam of Maplewood Lane, and Mr. Gardner agreed.

Mr. Toadvine asked if they are proposing a one or two-story garage addition, and Mr. Gardner stated it will be one story.

Mr. Smith asked if there is a need for an impervious surface Variance, and Mr. Toadvine stated there is not.

Mr. Esposito stated the Township is not participating in this matter.

There was no public comment, and the testimony was closed.

Mr. Bamburak moved, Mr. Smith seconded and it was unanimously carried to grant the Variance as requested.

APPEAL #10-1564 – GREG AND ROBIN FRANK

The Application submitted was marked as Exhibit A-1. Accompanying the Application was a 8 1/2" by 11" Plot Plan time-stamped by the Township 8/10/10, and this was marked as Exhibit A-2.

Mr. Greg Frank and Ms. Robin Frank were sworn in. Mr. Frank stated they are requesting a Variance for impervious surface so they can construct a flagstone patio in the rear yard along with walkways and a gazebo. He stated in the front they have three very small landscaping walls that are 51.83 square feet. He stated currently they have a

Variance for 20.5% impervious surface that was granted five years ago. He stated that originally on his Application he was requesting a 3.79% increase over this, but he is bringing it down to increase it to only 2.49%. He stated the total impervious surface would be 23%.

Mr. Smith asked Mr. Habgood the maximum impervious permitted for this lot; and Mr. Habgood stated it was 18%, but the Applicant was granted a prior Variance for 20.5%. Mr. Frank stated at that time they were adding an addition on the back of their home to their kitchen, and they did reduce the size so that they were left with 227 square feet which is why they are currently at 19.37%. He stated this would leave them with a patio that would only be 10' by 20'; and if there were an 8' foot table and chairs, there would not be room to have more than their immediate family which is why they are looking to make it a little larger.

Mr. Smith asked if they have considered pervious paving; and Mr. Frank stated while he did look into it, it was not decoratively what they were looking for. He stated they have a number of family members who are in their 80s who need access to the patio, and this would not be a surface that they could walk on. He stated he did do a lot of research to find out about the porous paving and other options for controlling problems with water and re-infiltration into the landscape. He stated he looked into those that he could do including a water garden type landscaping as well as collecting of rainwater from the downspouts, and this could then be used to irrigate the lawn during dry periods.

Mr. Smith asked if he would be willing to put those measures into place so as to maintain an effective impervious surface of 20.5% which is what the previous Variance allowed. Mr. Toadvine stated they would ask that the Applicant work with the Township engineer to determine what should be installed for stormwater management to create an effective impervious surface of 20.5%. Mr. Bamburak stated he should understand that this could involve a seepage bed which may be expensive. Mr. Frank stated he would be agreeable to this as a Condition of the grant of the Variance.

Mr. Esposito stated the Township is not participating but would agree with the Conditions being discussed by the Board.

Mr. Toadvine asked if Mr. Majewski had any idea of what they would require in terms of stormwater management; and Mr. Majewski stated it could be in the form of a rain garden, a rain barrel, underground seepage bed, and additional landscaping. He stated he could work with the Applicant on what might be most appropriate for the property.

Mr. Ron Luskowski, 902 Hamilton, stated his property adjoins the Franks, and he has run off that comes from the other lots including the Franks' property. He stated he reviewed the Application on Friday with Mr. Habgood, and he was concerned that it only alluded to stormwater management. He stated he has no objection to what they

are proposing, but he does have a problem with more stormwater run off coming onto his property. He stated currently there is a considerable amount of vegetation on the fence line, and the water still ponds onto his property; and he would like to see a Plan put on as part of the Appeal that would show how the additional run off will be accommodated so that there is no further ponding on his property. Mr. Malinowski stated there would be a Condition placed as part of the Approval. He stated they would work with the Township engineer, and the Applicant would not be allowed to do this work unless the Township engineer was satisfied that the effective impervious surface ratio was brought back to where it is now. Mr. Malinowski added that while it may not improve the situation, it will not make the problem worse.

There was no further public comment, and the testimony was closed.

Mr. Bamburak moved, Mr. Smith seconded and it was unanimously carried that the Variance be granted to allow impervious surface of 23% subject to the Condition that a Stormwater Management Plan be developed with the Township engineer to have an effective impervious area of 20.5% and subject to the Applicant entering into a Stormwater Management Operations and Maintenance Agreement with the Township for whatever improvements are made.

#### APPEAL #10-1565 – CAMERON C. AND OLGA JEAN TROILO

The Application submitted was marked as Exhibit A-1. Accompanying the Application was a one-sheet Plan entitled “Variance Plan” dated 8/4/10, and this was marked as Exhibit A-2.

Mr. Edward Murphy, attorney, was present. Mr. C. T. Troilo, Mr. Carter VanDyke, and Mr. Steven Burger, were sworn in.

Mr. Murphy stated this Application, which was previewed very briefly earlier this evening when they discussed the temporary sale signage, involves a property which is an assemblage of multiple tax parcels - #20-12-4, #20-12-5, #20-13-4, and #20-14-7, and total 15 ¼ acres. He stated the property is located at the intersection of Stony Hill Road and Yardley-Langhorne Road in the Historic/Commercial (H/C) Zoning District. Mr. Murphy stated Mr. VanDyke will testify as to the origin of and application of an Overlay in the H/C District known as the Traditional Neighborhood Development (TND) Overlay. He stated this was an Overlay that was in large measure the work product of the collaborative association between various public and private interests. He stated it has resulted in the proposed development of the property that is depicted on Exhibit A-2.

Mr. Murphy stated Mr. VanDyke will describe the nature of the development as shown on the Plan and will highlight for the Board various items of relief, all of which are outlined in the Application and all of which are a direct result of what is the first effort by an Applicant to follow the TND Overlay area and design requirements and try to meld them into a practical application for development of the site.

Mr. Murphy provided Mr. VanDyke's curriculum vitae, and this was marked as Exhibit A-3. Mr. VanDyke stated he has a Masters in Landscape Architecture from the University of Pennsylvania and over thirty-four years of experience, formerly with the Bucks County Planning Commission and for the last twenty-six years as the principal of Carter VanDyke Associates. He stated he is a Licensed Landscape Architect in the States of Pennsylvania, New Jersey, and Delaware, an AICP Certified Planner, and a Licensed Professional Planner in New Jersey. He stated he has served as a consultant for Lower Makefield in the past. He stated working with the Historic Commission as a consultant they drafted the TND Overlay District which Mr. Murphy has referred to.

Mr. Murphy stated Mr. VanDyke is present this evening in his role as the planner retained by Lower Makefield Township to assist in the drafting, adoption, and implementation of the TND Ordinance; and Mr. VanDyke agreed. Mr. VanDyke stated this project was started as a partnership between the Township and the Applicant and has been this way since the initiation of the conceptual plan which was used for guidance in developing the TND Ordinance.

Mr. Murphy asked Mr. VanDyke to discuss the origin of the TND Ordinance. Mr. VanDyke stated the TND Plan goes back to a prior consultant, March Associates, in the late 1990s. He stated his firm followed up in further developing this, and they designed the Design Guidelines for the Historic District which are used by the Historic Architectural Review Board (HARB); and they further developed the conceptual plan for the Village of Edgewood. He stated this was done in partnership with numerous landowners, not just this Applicant. He stated those other projects are currently on hold pending the resolution of the sewer for the Village of Edgewood. He stated this project, which is the largest project, will probably be the catalyst which will bring the sewer in which will lead to the resolution of the remaining projects.

Mr. Murphy asked what the TND Ordinance is intended to do, recognizing that this property is in the H/C District and the TND as adopted by the Township becomes an Overlay. Mr. VanDyke stated the Overlay District encompasses the entire triangle from Yardley-Langhorne Road, Stony Hill Road, and I-95 to the Bridge. He stated it also includes the parcels across the street on Yardley-Langhorne Road as well as the parcels across the street on Stony Hill Road including the day care facility, the building on the corner, and the parcels on both sides of the road continuing down Yardley-Langhorne Road, and all the way to Edgewood Road including the vicinity of the Township park.

Mr. VanDyke stated the Planning Commission and Board of Supervisors wanted to leave the current Zoning intact but allow for an Overlay Zone which is permissive provided the Applicant meets certain criteria. He stated this is a way they can create “Incentive Zoning,” and create Zoning incentives to all densities, provided certain design criteria are met which you normally cannot have under conventional Zoning Ordinances.

Mr. VanDyke stated one of the aspects of the Ordinance requires that the historic buildings within the District have to remain within the District, but does allow for buildings to be taken down if they are going to be replicated. He stated three of the structures on Stony Hill Road have gone before the Board of Supervisors and HARB, and one of the structures will be relocated, and the other two will be replicated as part of this Application. He stated this shows that the Applicant has shown good faith and is going to meet the spirit and intent of the Ordinance.

Mr. VanDyke stated the goal of the TND Ordinance is to create a town center, and this has been a major goal of the Board of Supervisors. He stated it is also the intent of the Historic Commission to preserve the historic buildings within the Historic District. He stated there are not a lot of historic buildings in the District which has always been a concern, but they wanted to allow compatible in-fill development to preserve the character of the existing Historic District; and this has been their major goal.

Mr. Murphy noted Exhibit A-2 which is the Plan which accompanied the Application. He asked Mr. VanDyke to describe the proposed development of the parcel.

Mr. VanDyke stated this project was started with original Sketch Plans which were developed by the Historic Commission and the Applicant approximately five years ago and eventually evolved into the Zoning Ordinance which was then reviewed by the Planning Commission and approved by the Board of Supervisors in 2007. He stated there are 15.25 acres, and it requires a mixed-use type of development with a minimum percentage of non-residential and a maximum percentage of residential. He stated this project meets all this criteria. He stated there is 41.8% non-residential, 31% residential, and 10.68 acres of green space. Mr. VanDyke stated there is a mixture of units. He stated they used Lahaska Village in Buckingham as the model. He stated they intend to create a mixture of housing types; and there are 4 single-family detached units, 22 two-family units, 24 townhouses, and 12 apartments which are above some of the retail/office establishments.

Mr. Murphy stated he noted in his introductory comments the fact that this Application is the first attempt to try to implement the TND Overlay since its adoption by the Board of Supervisors several years ago, and Mr. VanDyke agreed. Mr. Murphy stated there are multiple Variances being requested, and he asked why so many Variances would be required if they are operating under a new Ordinance. Mr. VanDyke stated the TND Overlay is a complex Overlay; and while they have used other models, there is also a

learning curve. He stated his office reviewed with the Historic Commission all the review letters from the Township engineer and the Township's traffic engineer as well as the other reviewing agencies to see if this met the intent of what they were looking for. He stated they made recommendations on how they could better comply with the intent of the Ordinance. He stated they also concluded that there were some areas which were very minor in nature or it was something they did not anticipate when they made the Ordinance since you cannot anticipate 100%.

Mr. Murphy noted the outline of relief that was attached to the Application which identifies each Variance sought; and asked Mr. VanDyke to comment on each item.

Mr. Murphy noted relief from the provisions of Section 238.3a3 which would, if approved, permit a proposed bank to have egress from the bank onto Langhorne-Yardley Road which is a collector road and not an arterial road. Mr. VanDyke showed the proposed bank's location on the Plan. Mr. Murphy stated this Plan is identical to Exhibit A-2. Mr. VanDyke showed the location of the driveway which is at the middle of the property onto Yardley-Langhorne Road. Mr. Murphy stated it is about halfway along the property frontage on Yardley-Langhorne Road and is identified as triangular #1 which is the key to Item #1 Variance shown in the list on the upper right hand corner of Exhibit A-2. Mr. VanDyke stated when they wrote the Ordinance they felt that both of the roads were arterial roads and did not know that one was a lesser order street which is a collector road. He stated it was not the intent of the Ordinance to encourage all bank driveways to go on the higher order street which is Stony Hill Road, but to allow flexibility to go onto Yardley-Langhorne Road. Mr. Murphy stated Stony Hill Road is classified in the Township's Ordinances as an arterial and Langhorne-Yardley Road is classified as a collector road; and Mr. VanDyke has testified that the Ordinance did contemplate access to either a collector or arterial for access points to and from financial institutions, and Mr. VanDyke agreed. Mr. Murphy stated this Variance is designed to address that inconsistency which Mr. VanDyke has indicated would be consistent with the spirit and intent of the TND Ordinance, and Mr. VanDyke agreed.

Mr. Gruen asked if the bank is Item #10 on the Plan, and Mr. VanDyke stated it is Building #10. Mr. Gruen asked why they could not have reversed the bank so that the cars could come in at Road B rather than going onto the collector road. Mr. VanDyke stated one of the issues is pedestrian safety, and you try not to have a bank drive-in window between the parking lot and where the drive-in window is going to be. He stated one of the intents was not to have a curb cut that close to the intersection coming out to Langhorne-Yardley Road. Mr. Smith asked the distance to the driveway from Road B. Mr. VanDyke stated from the cartway it is about 90' for building #10 from the curb cut on Langhorne-Yardley road. Mr. Majewski stated it is approximately 90' from curb to curb. Mr. VanDyke stated this is a right-turn only exiting from the bank drive-in, and it is only a single driveway – not a double driveway. Mr. Murphy stated there is no

possibility for conflict with vehicles exiting that egress and making a left to try to create more conflict at the Road B intersection, and everything is right-out only headed westerly, and Mr. VanDyke agreed.

Mr. Gruen stated he assumes they will address the corner where the light is, and Mr. Murphy stated there is a traffic study associated with this project that is far reaching.

Mr. Murphy stated Item #2 seeks relief from Section 238.3d1 to permit a drive-in window for a use other than a financial institution, and he asked Mr. VanDyke to describe the background of either the limitations or permissive language in the TND about drive-in windows. Mr. VanDyke stated during the process with the Planning Commission and the Board of Supervisors there was a great deal of discussion relative to the number of drive-in windows that might be anticipated within the District and discussion as to whether they would be permitted at all. He stated that after significant debate, there was a great emphasis to allow drive-in windows for banks, and this was resolved and developed in the Zoning Overlay Ordinance. He stated the Applicant is making a strong request, because of the way the market economy is now for coffee shops, to have a drive-in window; and they are asking for a drive-in window that does not take egress onto one of the collector roads, but onto an internal drive within the project. He showed the location of where this condition is proposed to occur at Building #13. He also showed how the driveway goes along the rear of the buildings which he noted on the Plan and exits out onto an internal drive. He stated it does not exit onto any of the arterial or collector roads. He stated the Board of Supervisors wanted to minimize curb cuts.

Mr. Gruen stated if they approve this drive-in window for the coffee shop, there could also be a McDonalds or Burger King; and Mr. VanDyke stated the Overlay Ordinance is very severe, and it allows for restaurants provided they do not have drive-in windows. Mr. Gruen stated he assumes they are saying it is okay for a coffee shop as long as they do not serve sandwiches, and Mr. VanDyke agreed.

Mr. VanDyke noted Items #3, #4, and #5 on the chart on Exhibit A-2 which relate to relief from the provisions of Section 238.4B2A3, Section 238.4B2B3, and Section 238.4B2C3. Mr. VanDyke marked as Exhibit A-4 - Residential Lot Compliance, and he agreed to provide copies by the next meeting. Mr. VanDyke stated the yellow represent the four houses, the orange buildings are the twins, and the tan units are the townhouses. He stated in the Ordinance they were very specific and made a distinction between the rear setback of the building from the rear setback from the garage. He stated the rear setback from the building is 40' and the setback from the garage is 20'. He marked as Exhibit A-5, which he will also provide to the Board by the next meeting, an Exhibit entitled "TND Compliance for Residential Units." He stated this Exhibit shows cross-sections of elevations of the buildings as well as a side elevation. He stated the Applicant

would like to have living quarters above the garage onto the alley which makes the alleys more livable as opposed to just having garages back there. He stated this is similar to what is existing in Newtown. He stated this has been reviewed by the Historic Commission and the Planning Commission, and they endorsed the concept. He stated it does not meet the current Ordinance so they need to request relief for this.

Items #6 and #7 on Exhibit A-2 were noted which relate to Section 238.161 and 238.152 regarding the open space. Exhibit A-6 was marked, a copy of which will be provided to the Board, and is called “Area Compliance Calculations.” Mr. VanDyke stated because this is a complicated Ordinance, there are a lot of submissions that have to be provided to the Township to show compliance. He noted on the plan three areas which do not comply with the 10’ green area setback. He stated one is where there is an existing non-conforming driveway which he showed on the Plan. He stated there is a 10’ to 12’ in fee access out to Stony Hill Road, and it is intended in the proposal that this remain as an emergency-only access. He stated currently it is paved, but it could just be a stabilized grass swale. He stated it does not meet the intent of having a green area currently. He noted the second area which relates to Building #14 which is a townhouse. He stated a number of the townhouses as seen along the sides have a side porch proposed, and he showed this on Exhibit A-5. Mr. VanDyke stated the third area of non-compliance is the rear of Tax Parcel #20-012-004; where there is only 6’ instead of 10’ along the one buffer area.

Mr. Murphy stated Item #7 deals with the opportunity to have a naturalized detention basin adjacent to I-95, and the Variance being sought with regard to the basin. Mr. VanDyke stated this has to do with whether the Ordinance meets the intent of the 8% minimum requirement for green area. He stated this is an interpretative issue because the green area as defined does not include the detention basins because the detention basins are not actually permitted within the District. He stated Exhibit A-6 shows the various areas of the Plan which meet the criteria for green area. He showed on the Plan the area of the detention basin where it says, “green space” which is at the end of a long parking lot behind where the existing office is located. He stated there is currently a detention basin there which is permitted under the under-laying Zoning Ordinance but not under the Overlay TND Ordinance. He stated they have gone through the calculations; and by subtracting the area of the proposed detention basin, it is actually very close to meeting the criteria. He stated the green area is about 8.54%, but in talking to the Applicant’s engineer he indicated that he has not finalized the design of the detention basin and cannot therefore certify that he can actually meet the 8%. He stated they have therefore requested that the Applicant proceed with the Variance for this lack of compliance of the green space. Mr. VanDyke stated the area where the detention basin is proposed is to be developed as a rain garden as opposed to a detention basin, and it will still read as “green space,” so it is more semantics than anything else. He stated this has been reviewed by the Planning Commission, the Historic Commission, the Township engineer, and other professionals who feel this is an appropriate solution; but it will still require a Variance.

Mr. Gruen stated a green space is something that you can walk in. Mr. VanDyke stated it is a rain garden, and they have suggested plants to be installed. He stated this ties in with what the Township's Environmental Commission has asked for, and the Applicant and Historic Commission are trying to be compliant as much as possible with all the different reviewing agencies. It will not be a grassy detention area that would have to be mowed.

Mr. Smith stated he recognizes that you cannot anticipate 100% when the Ordinance was passed, but it seems that there has been a great deal of testimony about Mr. VanDyke's involvement in crafting the Ordinance and shaping the way that it was to take place. He stated if it meets the spirit of the Ordinance, he does not understand why it does not meet the rule of the Ordinance; and he questions why they have to request fourteen Variances. He asked if it would not be easier to go back to the Board of Supervisors and have them change the Ordinance so that they do not have to request any Variances. Mr. Murphy stated they did discuss this with the Township staff as to how they should address these issues. He stated the consensus was that even though the number of Variances may seem more than a few, the quality of the Variance being sought were relatively small; and it was felt that once explained, the nature of the Variances were appropriate to be presented to the Zoning Hearing Board as opposed to going through the more involved process of modifying the Ordinance itself. Mr. Smith stated he is troubled where there were enough oversights in putting the Ordinance together that there is this need for these Variances now. He questions how many oversights have been made in this Plan that will be a problem in the future, even with the Variances.

Mr. Smith stated he is having a problem with his shoulder this evening, and he is trying to continue with the Hearing. He asked if there would be a convenient point when they could stop this evening. Mr. Murphy stated he does not feel there will be much more testimony this evening; and it was his understanding that the Township wants to reflect after hearing the testimony this evening, and no decision will be asked of the Board this evening. Mr. VanDyke stated he feels it will only take him ten to fifteen more minutes.

Mr. Murphy noted Item #8 on Exhibit A-2 which relates to the front porches that should be 120 square feet. He stated the Applicant is proposing to modify this size to be 48 square feet up to 96 square feet. Mr. VanDyke stated no one picked this up when the Ordinance was drafted, and he stated a 10' by 12' front porch is huge. He stated what they are showing on Exhibit A-5 are a variety of porches. He stated all the porches would have to be reviewed and approved by HARB. He feels the scale is appropriate and satisfies the intent of the TND.

Mr. Murphy stated Item #9 discusses relief to permit adjacent infill buildings to be larger than 10% of the historic structures. Mr. VanDyke marked Exhibit A-7. He stated in developing the Ordinance, it revolved around the stone building on the corner of Langhorne-Yardley Road and Stony Hill Road. He stated the Ordinance was looking to make sure that the scale and massing of buildings that were next to it would fit the

character of the building. He stated the building on the corner is a 2 ½ story building with a one story shed in the rear. He stated it is 2,662 square feet. He stated what is being proposed next to it is an interconnected wing which will be a restaurant complex with eating in front onto Yardley-Langhorne Road, and there is a building across the front and the massing of the building does not exceed the width of the building which is one of the criteria. He noted on the Plan a mass which is 1,508 square feet which is less than 10% more than a mass he noted on the Plan. He stated the building as viewed from Stony Hill Road is the same massing and scale in terms of frontages. He showed a one-story building which is 1,882 square feet which is less than the overall size of the building so it meets the intent. He stated what they were concerned with was that though this was the model that they designed the Ordinance around, when they went through the reviewing process someone might say that the building total is more than 110% of the existing building. He stated this was not the intent, and the intent was how the massing worked on each street. He stated it is really functioning as two separate buildings which are attached by a small 180 square foot wing.

Mr. Murphy noted Item #10 which is the proposal to eliminate the need for one loading space or loading berth for each 10,000 square feet of floor area. Mr. VanDyke stated this was the Section that came out of the standard Ordinance. He stated they do have provisions that when there are inconsistencies between the TND Overlay Ordinance and the existing Zoning, the TND takes precedence; but it is still an interpretative issue. Mr. VanDyke noted on the Plan the loading facilities proposed, but stated they are not designed specifically for tractor-trailers since you do not get those for the offices or small shops; and they get small panel trucks, UPS, and Federal Express. He stated this is not a shopping center in the strict sense – it is a Village. He stated this is a TND type development, and what is proposed is appropriate for a TND type development.

Mr. Murphy noted Item #11 which deals with the request to use the above-ground rain garden in lieu of the requirement that all stormwater management facilities be underground. Mr. VanDyke noted the two watersheds, and he showed the watershed division. He noted one area where water goes to an existing non-conforming detention basin, and stated there is an outflow pipe that goes under I-95. He stated the other watershed goes toward Edgewood Road past the CVS toward Heacock Road. He stated with regard to the watershed toward Heacock Road, the Ordinance has some permissive requirements. He stated the spirit of the Ordinance was to not have detention basins since this is a historic village, and detention basins are a 20<sup>th</sup> Century phenomenon which does not fit within a Historic District. Mr. VanDyke also stated that when you have confined areas, detention basins can also look very unattractive. He stated one of the criteria was to allow for off-site stormwater collection, and there is a Township regional system that is going to take care of a lot of the stormwater in one direction; but in the direction he noted on the Plan, he stated there is no relief. Mr. VanDyke showed on the Plan what Mr. Burger has proposed; and he noted three parking lots which all have underground

storage facilities. He stated when it gets to the outflow pipe, it needs an access. He stated it also allows for a little more capacity. He noted the area on the Plan which must accommodate underground the 100 year flood; and it does do this, except for one area he noted where it must connect to the overflow pipe. He stated this is the reason that Mr. Burger approached the Historic Commission and the Planning Commission for relief in this regard. Mr. VanDyke showed the basin on the Plan and stated the intent is to have the basin not appear to be a basin, but to appear to be a rain garden in the spirit and intent of what the Environmental Commission has requested.

Mr. Murphy noted Item #12, and Mr. Toadvine stated the Board has already addressed that issue at a previous Application; and Mr. Murphy agreed. He stated it is designed to minimize impervious surface. Mr. Murphy stated this also relates to Item #13 – reducing parking stall size; and they have discussed this many times in the past before the Zoning Hearing Board to try to minimize unnecessary impervious.

Mr. Murphy noted Item #14 deals with the reduction in setback in the front feet from 12' to 8 ½'.

Mr. VanDyke stated part of the intent of the District is to allow for on-street parking; but PennDOT has come back and insisted that when on-street parking is permitted on Stony Hill Road, when it gets to the intersection, PennDOT is requiring a left-hand turn lane onto Yardley-Langhorne Road. He stated this means that the curb will be about 8 ½' from the edge of the porch on the building on the corner, and this is a pre-existing condition.

Mr. Murphy stated all of the items of relief described have been supported by the Township Planning Commission, and Mr. VanDyke agreed. He stated they have also gone over all the items with the Historic Commission.

Mr. Esposito stated the Township is participating, and they would like to reflect on the testimony given and discuss how they would like to proceed. It was suggested that the matter be continued to September 21, 2010; and Mr. Murphy left the meeting briefly to see if he would be available at that time.

A gentleman from the audience asked if those in the audience could comment at this time, and Mr. Toadvine stated they could not while Mr. Murphy was not present. The gentleman asked if the audience would have an opportunity to make comments this evening; and Mr. Toadvine stated they would not tonight, but would at the next meeting. The gentleman questioned why they could not make comments this evening, and Mr. Toadvine stated one of the Board members has already indicated that he had shoulder surgery and has asked that they stop the meeting at this time. The gentleman was

concerned that he was not able to speak this evening when he sat through the entire meeting. The gentleman stated on his Agenda, it indicated that this matter was going to be earlier in the evening, but he was advised that that was a different item; and the matter under discussion was scheduled last on the Agenda. Mr. Toadvine stated one of the Board members has a medical issue and cannot continue any longer; and as a result they will continue the matter, and at the next meeting, there will be an opportunity for the public to be heard. The gentleman stated if Mr. Smith had not been present this evening, the meeting would still have gone on; and Mr. Toadvine stated this is not necessarily correct. The gentleman stated Mr. Smith could excuse himself. Mr. Toadvine stated Mr. Smith has heard testimony and is participating. Mr. Smith stated he is interested in the matter and wants there to be a fair Hearing with fair Decisions to be made by the Zoning Hearing Board. Mr. Smith stated he is no longer in a good frame of mind to listen. The gentleman said this is not the point, and there are people present who have been here all evening.

Mr. Murphy stated he is available on September 21, 2010.

Mr. Bamburak moved, Mr. Smith seconded and it was unanimously carried to continue the matter to September 21, 2010.

There being no further business, Mr. Smith moved, Mr. Bamburak seconded and it was unanimously carried to adjourn the meeting at 9:45 p.m.

Respectfully Submitted,

Gregory J. Smith, Secretary

